

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 30 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

MILIKA K. RAKAI,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-71200

Agency No. A79-286-713

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted June 18, 2008<sup>\*\*</sup>

Before: LEAVY, HAWKINS, and W. FLETCHER, Circuit Judges

Milika Rakai, a native and citizen of Fiji, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's ("IJ") decision denying her application for asylum, withholding of

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252, and we deny the petition for review.

We do not reach Rakai’s claim that extraordinary circumstances excused the untimely filing of her asylum application because she waived any challenge to the agency’s dispositive finding that she was ineligible for asylum because she had firmly resettled in Australia. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996); 8 C.F.R. § 208.13(c)(2)(B) (an applicant may not be granted asylum if she “was firmly resettled in another country prior to arriving in the United States.”). Similarly, because Rakai fails to address withholding of removal or CAT relief in her brief, those issues are waived. *See id.*

We review de novo claims of constitutional violations in immigration proceedings. *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001). Rakai has not established that she was prejudiced by the denial of her third request for a continuance or by alleged bias of the IJ, because nothing in the record shows that she was eligible for any form of relief from removal. *See Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 926 (9th Cir. 2007) (petitioner cannot show she was prejudiced by alleged bias where nothing in the record shows that she was eligible for any form of relief from removal).

**PETITION FOR REVIEW DENIED.**